

ORDINANCE NO. 09-62

ORDINANCE REZONING LOTS 1 AND 2, FROM B-1 (HIGHLY RESTRICTED RETAIL DISTRICT) TO CR (COMMERCIAL-RESIDENTIAL DISTRICT), REZONING LOT 3, FROM R-2 (ONE AND TWO-FAMILY RESIDENTIAL DISTRICT) TO CR (COMMERCIAL-RESIDENTIAL DISTRICT), AND REZONING LOTS 4, 5, AND 6, FROM R-2 (ONE AND TWO-FAMILY RESIDENTIAL DISTRICT) TO P (PARKING), ALL IN BLOCK 4-E, OF "EIGHTH ADDITION TO THE TOWN OF HIALEAH", ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 9, AT PAGE 11, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA, ACCORDING TO A SITE PLAN DATED MAY 26, 2009, PREPARED BY ALBERT I. RODRIGUEZ, R.A., AND GRANTING A CONDITIONAL USE PERMIT (CUP) TO ALLOW A CHILD DAY CARE FACILITY AND PRIVATE SCHOOL PURSUANT TO HIALEAH CODE §§98-181(2)h AND 98-181(2)i. **PROPERTY LOCATED AT 1395 EAST 4 AVENUE, HIALEAH, FLORIDA.** REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; PROVIDING PENALTIES FOR VIOLATION HEREOF; PROVIDING FOR A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Planning and Zoning Board at its meeting of June 24, 2009, recommended approval of this ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA, THAT:

Section 1: Lots 1 and 2 are hereby rezoned from B-1 (Highly Restricted Retail District) to CR (Commercial Residential District), Lot 3 is hereby rezoned from R-2 (One and Two-Family Residential District) to CR (Commercial Residential District), and Lots 4, 5, and 6 are hereby rezoned from R-2 (One and Two Family Residential District) to P (Parking), all in Block 4-E, of the "Eighth Addition to the Town of Hialeah", according to the Plat thereof, as recorded in Plat Book 9, at Page 11, of the Public Records of Miami-Dade County, Florida, according to a site plan dated May 26, 2009, prepared by Albert I.

Rodriguez, R.A., and is hereby granted a conditional use permit (CUP) to allow a child day care facility and private school pursuant to Hialeah Code §§98-181(2)h and 98-181(2)i. Property located at 1395 East 4 Avenue, Hialeah, Miami-Dade County, Florida and legally described as follows:

LOTS 1, 2, 3, 4, 5, AND 6, IN BLOCK 4-E, OF "EIGHTH ADDITION TO THE TOWN OF HIALEAH", ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 9, PAGE 11, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA

Section 2: Repeal of Ordinances in Conflict.

All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 3: Penalties.

Every person violating any provision of the Code or any ordinance, rule or regulation adopted or issued in pursuance thereof shall be punished by a civil penalty not to exceed \$500.00 within the discretion of the court or administrative tribunal having jurisdiction. Each act of violation and each day upon which any such violation shall occur shall constitute a separate offense. In addition to the penalty prescribed above, the city may pursue other remedies such as abatement of nuisance, injunctive relief, administrative adjudication and revocation of licenses or permits.

Section 4: Additional Penalties upon Violation of Conditions of Use.

Any change of the terms and conditions of the use identified in this ordinance and as provided in the Declaration of Restrictive Covenants, if submitted, will cause a revocation of the city occupational license if issued in connection herewith and the

property shall revert to the zoning classification without the benefit of the conditional use and associated variances.

Section 5: Severability Clause.

If any phrase, clause, sentence, paragraph or section of this ordinance shall be declared invalid or unconstitutional by the judgment or decree of a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance.

Section 6: Effective Date.

This ordinance shall become effective when passed by the City Council and signed by the Mayor or at the next regularly scheduled City Council meeting, if the Mayor's signature is withheld or if the City Council overrides the Mayor's veto.


PASSED and ADOPTED this 25th day of August, 2009.

THE FOREGOING ORDINANCE
OF THE CITY OF HIALEAH WAS
PUBLISHED IN ACCORDANCE
WITH THE PROVISIONS OF
FLORIDA STATUTE 166.041
PRIOR TO FINAL READING.


Carlos Hernandez
Council President

Attest:

Approved on this 27 day of August, 2009.


Rafael E. Granada, City Clerk


Mayor Julio Robaina

Approved as to form and legal sufficiency:


William M. Grodnick, City Attorney

Ordinance was adopted by a unanimous vote with Councilmembers, Caragol, Casals-Muñoz, Cue, Garcia-Martinez, Gonzalez, Hernandez, and Yedra voting "Yes".



CFN 2009R0667377
DR Bk 27013 Pgs 1958 - 1962; (5pgs)
RECORDED 09/15/2009 15:15:02
HARVEY RUVIN, CLERK OF COURT
MIAMI-DADE COUNTY, FLORIDA

Prepared by and return to:
City of Hialeah Planning Division
501 Palm Avenue, Second Floor
Hialeah, FL 33010

**DECLARATION OF RESTRICTIVE COVENANTS
(Corporate)**

(I) (WE), Alexis Tejeda, President, Thumbelina Learning Center, Corp.

Being the tenant(s) of lands described herein:

Lots 1, 2, 3, 4, 5, & 6, in Block 4-E, of Eighth Addition to the Town Hialeah, according to the plat thereof, as recorded in Plat Book 9, at Page 11, of the Public Records of Miami-Dade County, Florida

Property located at 1395 East 4 Avenue, Hialeah, Florida. The Folio number is, 04-3117-011-0550, make the following Declaration of Restrictive covenants covering and running with the above property, specifying that this restriction during its lifetime shall be for the benefit of and a limitation upon all present and future owners of the real property described above, in favor of and enforceable by the City of Hialeah, Florida.

In connection therewith, the undersigned covenants, represents and agrees as follows:

1. The premises located at 1395 East 4 Avenue, Hialeah, Florida, is granted a Conditional Use Permit for the expansion of a daycare facility and operation of a K-5 school on the property with a maximum enrollment capacity of 220 children at the daycare and 325 students at the K-5 school. In order to provide for the continued safe and orderly flow of pedestrian and vehicular traffic into and out of the daycare and school during the hours of admission to and dismissal from class, and prevent and avoid unreasonable disruption of the rightful vehicular and pedestrian utilization of the public streets and sidewalks, the petitioner proffers that the day care facility and school shall provide onsite traffic control personnel at peak traffic hours to facilitate the proper flow of traffic to and from the school and the day care facility and in connection with the internal circulation of motor vehicles and buses.
2. This covenant is intended and shall constitute a restrictive covenant concerning the use, enjoyment, and title to the above-described property and shall constitute a covenant running with the land and may be recorded in the Public Records of Miami-Dade County, Florida. This covenant shall remain in full force and effect and shall be binding upon the undersigned, its (their) heirs, successors and assigns until such time as the same is modified, amended or released and may only be modified, amended or released by a written instrument executed by the then owner having fee simple title to the property affected or to be affected by such modification, amendment, or release; provided, however, the same is also approved by the City Council and the Mayor of the City of Hialeah, or its successors, by resolution, upon advertised notice, or by ordinance if the covenant is adopted by ordinance or as otherwise provided in Hialeah Charter.
3. Where construction has occurred on said property described herein, pursuant to a permit issued by the City of Hialeah, and inspection made and approval of occupancy given by the City, the same shall create a conclusive presumption that the improvements thus constructed comply with the intent and spirit of the restrictions referenced herein and this Declaration of Restrictive Covenants shall not be construed as clouding title of any of said property on which such development has occurred.

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PLN

DECLARATION OF RESTRICTIVE COVENANTS
(Corporate).

IN WITNESS WHEREOF, We have hereunto set out hands and seals at
501 Palm Avenue this 27 day of August, 2009.
(location)

Attest: _____

Name of Corporation: Thumbelina Learning Center

Secretary: _____

Typed/Printed Name

Signed, sealed and delivered in the presence of: _____

By: _____
President: _____

Alexis Tejeda, President

Typed/Printed Name

Witness

Typed/Printed

Name Debera Storch

Witness _____

Typed/Printed Name MARIO FIGUEREDO

STATE OF Florida
COUNTY OF Miami-Dade

Corporate Seal

The foregoing instrument was acknowledged before me on this 27 day of August
by Alexis Tejeda as President, and N/A as Secretary, of
(Name of Officer or Agent) (Name of Secretary)

Thumbelina Learning Center Corp. corporation, a Florida corporation.
(Name of Corporation) (State or Place of Incorporation)

They are personally known to me or have produced the following Personally Known
as identification and did (did not) take an oath and who attest to the truth and accuracy of the
representations contained herein.

This document was prepared by: City of Hialeah, Florida

Zoning Division
Name

501 Palm Avenue
Street

Hialeah, FL 33010
City State Zip Code

Patricia Chaiken
Signature of Notary Public
NOTARY PUBLIC-STATE OF FLORIDA
Patricia Chaiken
Commission # DD867498
Name of Notary Public stamped
Commission Number: May 28, 2013
BONDED WITH ATLANTIC BONDING CO., INC.

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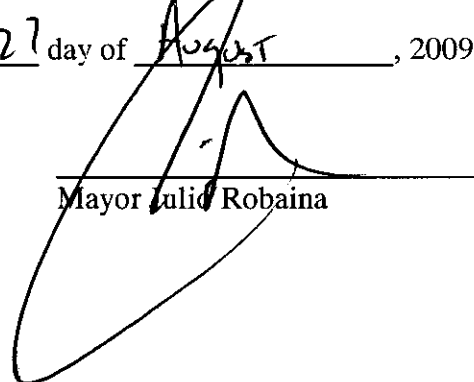
Carlos Hernandez
Council President

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Rafael E. Granada, City Clerk



Mayor Julio Robaina

Approved as to form and legal sufficiency:



William M. Grodnick, City Attorney

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